

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States District Court
Southern District of Texas
FILED

MAR 27 2019

David J. Bradley, Clerk of Court

United States of America

v.

Christopher Alan Fleming

Case No.

H19-0514M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 09/18/2018 - 03/23/2019 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 2252A (a)(2)(B)

18 U.S.C. § 2252A (a)(5)(B)

Any person who knowingly possesses, receives or distributes any material that contains child pornography that has been mailed, or using any mean or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer. Any person who knowingly possesses any material that contains an image of child pornography that has been mailed or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer.

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Ryan J. Shultz, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

March 27, 2019

Judge's signature

City and state:

Houston, Texas

United States Magistrate Judge Frances H. Stacy

Printed name and title

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN THE MATTER OF:
Christopher Alan Fleming

§
§

Case No. _____

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Ryan J. Shultz, being duly sworn, hereby depose and state the following:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since September 2008. I am charged with the duty of investigating violations of the laws of the United States, collecting evidence in cases in which the United States is or may be a party in interest and performing other duties imposed by law. During my assignment with the FBI I have participated in the execution of search warrants for documents and other evidence, including computers and electronic media, in cases involving child pornography and the sexual exploitation of children. I have investigated many cases involving child pornography and the sexual exploitation of children. I have also participated in various FBI mandated and volunteer training for the investigation and enforcement of federal child pornography laws in which computers were used as the means for receiving, transmitting and storing child pornography as defined in Title 18, United States Code, Section 2256.
2. This affidavit is submitted for the limited purpose of establishing probable cause in support of the attached Complaint and therefore contains only a summary of the relevant facts. I have not included each and every fact known by me concerning the individuals and events described herein. The information contained in this affidavit is based on my firsthand knowledge as well as information obtained through witness interviews conducted by me or other Law Enforcement Officers or Special Agents of the FBI and a review of various records.
3. A growing phenomenon on the Internet is peer to peer file sharing (hereinafter, "P2P"). P2P file sharing is a method of communication available to Internet users through the use

of special software. The software is designed to allow users to trade digital files through a worldwide network that is formed by linking computers together.

4. On September 18, 2018, while in pursuit of users sharing known child pornography materials on the BitTorrent Peer-To-Peer file sharing network, your Affiant identified a computer with Internet Protocol (IP) address 50.233.154.50 as a potential download candidate, or source, with more than 16,000 files with hash values consistent with known child pornography.
5. On the same date, starting at 18:04:18 UTC and ending at 22:53:10 UTC, your Affiant successfully downloaded a torrent containing approximately 170 video files and 26 contact sheets containing more than 750 image files that the computer at IP address 50.233.154.50 was making available. A review conducted of the downloaded files confirmed several of them to be child pornography in accordance with Title 18, United States Code, Section 2256(8).
6. In addition to the session described above, your Affiant connected to a computer associated with IP address 50.233.154.50 on numerous other occasions between September 18, 2018, and October 15, 2018. During those sessions, your Affiant collectively downloaded approximately 416 video files and 53 contact sheets which contained more than 1,200 image files.
7. The downloaded files were remarked as depicting minor males and females, ranging from approximately 6 to 13 years of age, engaged in illicit sexual acts to include oral, vaginal and anal penetration by the erect penis of an adult male or by foreign objects; bestiality; masturbation; as well as lewd and lascivious displays of the genitals.
8. Your Affiant reviewed the files obtained during the above identified sessions and believes, based on his training and experience, that the files obtained from IP address 50.233.154.50 are child pornography as defined in Title 18, United States Code, Section 2256. The content of five of the files downloaded from IP address 50.233.154.50 between September 18, 2018, and October 15, 2018, are described as follows:

a. Filename: 000194.wmv

Download Date: September 18, 2018

Description: This is a video file that is 1 minute and 53 seconds in length which depicts a minor female, estimated to be less than 12 years of age, nude from the waist down anally penetrating herself with a foreign object and displaying her genitals to the camera in a lewd and lascivious manner.

b. Filename: 000088.avi

Download Date: September 18, 2018

Description: This is a video file that is 6 minutes and 50 seconds in length which depicts a minor female, estimated to be less than 12 years of age, being vaginally penetrated by the erect penis of an adult male.

c. Filename: bestiality dog girl masturbation oral peeing petting pthc webcam.wmv

Download Date: October 15, 2018

Description: This is a video file that is 16 minutes and 49 seconds in length which depicts a minor female, estimated to be less than 12 years of age, nude from the waist down masturbating her genitals and/or having her genitalia licked by a dachshund canine.

d. Filename: sanucka.mpg

Download Date: October 15, 2018

Description: This is a video file that is 20 seconds in length which depicts a minor female, estimated to be less than 10 years of age, being vaginally penetrated by the erect penis of an adult male.

e. Filename: girl man masturbation oral pthc webcam.wmv

Download Date: October 15, 2018

Description: This is a video file that is 17 minutes and 19 seconds in length which depicts a minor female, estimated to be less than 9 years of age, being orally penetrated by the erect penis of an adult male.

9. Your Affiant determined that IP address 50.233.154.50 was registered to the Internet Service Provider (ISP) Comcast and subsequently served Comcast with an administrative subpoena in pursuit of subscriber information. On September 24, 2018, Comcast responded to the administrative subpoena and provided account information for IP address 50.233.154.50 assigned for the period of September 18, 2018, at 18:04:18 (UTC), which is the date and time of the aforementioned law enforcement download initiation. The account information provided by Comcast identified the subscriber as NS Controls, Inc. with a service address in Houston, Texas.

10. In early October, your Affiant discreetly approached the offices of NS Controls and spoke with a representative of the business whom requested anonymity, hereinafter referred to as Witness1. After learning of the identity of your Affiant and the nature of the contact, Witness1 agreed to assist the investigation in order to terminate the activity from continuing at their place of employment.
11. Witness1 introduced your Affiant to Brian Covell, Director of Operations at Percento Technologies, who was hired as an outsourced IT and Cyber Security provider. It was agreed that whenever your Affiant observed online activity regarding IP address 50.233.154.50, Covell would be notified and subsequently make attempts to identify the suspect source device.
12. On several occasions between mid-October and late-November of 2018, IP address 50.233.154.50 was observed online and in possession of child pornography material. Attempts made by Covell to identify the suspect source device were limited by the level of security that NS Controls had subscribed; however, Covell was able to eliminate all of NS Controls business owned workstations by conducting a remote search for devices with peer-to-peer software installed, which there were none.
13. After numerous observations over the identified period of time, the suspect device was singled out based on a cross-reference between law enforcement observations on the BitTorrent Network and Covell's observations of corresponding exceptionally high upload and download traffic on the NS Controls bandwidth, which is consistent with peer-to-peer file sharing traffic.
14. The device associated with the activity observed by Covell was unique to MAC address 01AC5F3E496CC7, which was recognized through an OUI lookup tool as a device manufactured by Samsung. For reference, a MAC address is a unique series of characters assigned to a specific device by the manufacturer at the time of production.
15. On or about November 19, 2018, FBI Houston served an administrative subpoena to Samsung in pursuit of subscriber information associated with MAC address 01AC5F3E496CC7. A response received from Samsung identified the device in question as a Samsung Galaxy S7 cellular telephone with model number SM-G930P, serial

number R28H21VYKTR and IMEI #35550107184947. According to Samsung, based on their sales records the device was believed to be serviced by the carrier, Sprint.

16. On December 6, 2018, FBI Houston served an administrative subpoena to Sprint in pursuit of subscriber information associated with IMEI #35550107184947. A response received from Sprint identified the subscriber as Brooke Fleming with a billing address on Brentway Drive in Houston, Texas. The account with Sprint was regarded as having been cancelled on April 21, 2018, and the device was no longer on their network.
17. Also on December 6, 2018, FBI Houston served an administrative subpoena to AT&T in pursuit of subscriber information associated with IMEI #35550107184947. A response received from AT&T identified the subscriber as Christopher Fleming with a billing address on Brentway Drive in Houston, Texas. The account for Christopher Fleming was opened with AT&T on April 21, 2018, and was regarded as being in "active" status.
18. On December 20, 2018, your Affiant contacted NS Controls in order to inquire if they recognized the names of either Christopher and/or Brooke Fleming. Witness1 advised that Christopher Fleming was actively employed with NS Controls and that Brooke Fleming was known to be his spouse.
19. On December 20, 2018, a check of the online database CLEAR showed that the most recent address for Christopher Alan Fleming was on Palladio Drive in Cypress, Texas. However, a review of the Harris County Appraisal District database for residential address on Brentway Drive in Houston, Texas, the address listed for Christopher Fleming on the AT&T subscriber records, revealed the residence was registered to William and Kelly Fleming, whom are believed to be Christopher Flemings' parents.
20. On January 9, 2019, a federal Search and Seizure Warrant was issued out of the Southern District of Texas in the interest of the Samsung Galaxy S7 cellular telephone device bearing IMEI# 35550107184947. On January 16, 2019, your affiant executed said warrant outside the Fleming residence located at the address on Palladio Drive in Cypress, Texas.
21. Christopher Fleming, hereinafter referred to as Fleming, was encountered during the execution of the search warrant and after being advised of his *Miranda Rights* chose to

make a statement which was audio/video recorded in the presence of your Affiant and FBI Special Agent Robert J. Guerra.

22. As a general summary, Fleming advised that he had utilized the uTorrent P2P software program to download child pornography content to his personal cell phone while connected to the Wi-Fi at his place of employment, NS Controls. Fleming appeared to have an above average understanding of the uTorrent program as a file sharing program, though he remarked that he had made attempts to limit his sharing.
23. As a general process, Fleming would connect to the NS Controls Wi-Fi upon arriving at work, install the uTorrent application to his personal cell phone device, download child pornography content to his personal cell phone through the uTorrent program, view the downloaded content while still at work, then delete the child pornography content and the uTorrent application from his phone prior to arriving home from work. Fleming explained that he had acted in this manner in order to avoid being caught by his wife and to avoid dirtying up his home IP address.
24. Fleming advised that he has an addiction to pornography which he compared to trying to stop a runaway train. Though Fleming understood his actions to be illegal, he explained that the addiction would cause him to do things that are irrational.
25. Agents confirmed the identity of Fleming's personal cell phone device, specifically described as the Samsung Galaxy S7 cellular telephone device bearing IMEI# 35550107184947, and seized it pursuant to the federal search warrant. Shortly thereafter, agents departed the residence without incident.
26. On January 5, 2019, while in pursuit of users sharing known child pornography materials on the BitTorrent Peer-To-Peer file sharing network, your Affiant identified a computer with Internet Protocol (IP) address 73.206.127.202 as a potential download candidate, or source, with more than 2,000 files with hash values consistent with known child pornography.
27. On the same date, starting at 20:02:54 (GMT – 6) and ending at 22:57:28 (GMT – 6), your Affiant successfully downloaded a torrent containing approximately 2 video files and 4 contact sheets containing more than 50 image files that the computer at IP address

73.206.127.202 was making available. A review conducted of the downloaded files confirmed several of them to be child pornography in accordance with Title 18, United States Code, Section 2256(8).

28. In addition to the session described above, another law enforcement officer, Texas State Office of Attorney General Criminal Investigator Gary Marquis, connected to a computer associated with IP address 73.206.127.202 on March 2, 2019, at 07:27:17 (GMT – 6). During that session, Criminal Investigator Gary Marquis downloaded one torrent file containing approximately 88 files of interest from a child pornography perspective. A review conducted of the downloaded files confirmed multiple files to be child pornography in accordance with Title 18, United States Code, Section 2256(8).
29. The downloaded files were remarked as depicting minor females, ranging from approximately 7 to 10 years of age, engaged in illicit sexual acts to include the oral and vaginal penetration of the victims by the erect penis of an adult male as well as lewd and lascivious displays of the victim's genitals.
30. Your Affiant reviewed the files obtained during the above identified sessions and believes, based on his training and experience, that the files obtained from IP address 73.206.127.202 are child pornography as defined in Title 18, United States Code, Section 2256. The content of three of the files downloaded from IP address 73.206.127.202 between January 5, 2019, and March 2, 2019, are described as follows:

a. Filename: Tropical Cuties Adry HC 008.MTS

Download Date: January 5, 2019

Description: This is a video file that is 13 minutes and 54 seconds in length which depicts a nude minor female, estimated to be approximately 10 years of age, being orally and vaginally penetrated by the erect penis of an adult male.

b. Filename: Adry HC007.MTS.jpg

Download Date: January 5, 2019

Description: This is a contact sheet that contains approximately 17 still images that depict a nude minor female, estimated to be approximately 10 years of age, being vaginally penetrated by the tongue of an adult male as well as by the erect penis of an adult male.

c. Filename: Adry Toy1.MTS

Download Date: March 2, 2019

Description: This is a contact sheet that contains 12 still images that depict a nude prepubescent female lying on her back with her legs spread in a manner that expose her genitalia to the camera. The female is holding an artificial phallic device in her hands and is touching said device to her genitalia.

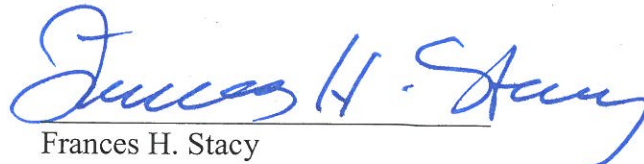
31. Your Affiant determined that IP address 73.206.127.202 was registered to the Internet Service Provider (ISP) Comcast and subsequently served Comcast with an administrative subpoena in pursuit of subscriber information. On March 7, 2019, Comcast responded to the administrative subpoena and provided account information for IP address 73.206.127.202 assigned for the period of January 5, 2019, at 20:02:54 (GMT – 6), which is the date and time of the aforementioned law enforcement download initiation. The account information provided by Comcast identified the subscriber as Christopher Fleming with residential service address on Palladio Drive in Cypress, Texas. The account was regarded as being in an “active” status.
32. The subscriber identified, specifically Christopher Fleming at the residential address on Palladio Drive in Cypress, Texas, is recognized as the same individual that your Affiant executed a search warrant on in pursuit of child exploitation material on January 16, 2019.
33. On March 27, 2019, FBI Houston executed a search warrant at Christopher Fleming’s personal residence in pursuit of child exploitation material. Christopher Fleming was encountered at the time of the search warrant execution and after being advised of his *Miranda Rights*, Fleming stated that he wished to have an attorney present during any official questioning.

CONCLUSION

33. Based on all information set forth above, your Affiant believes there is probable cause to believe that from on or about September 18, 2018, through March 23, 2019, Christopher Alan Fleming, was in violation of Title 18 U.S.C. § 2252A (a)(2)(B) and 2252A (a)(5)(B) - the distribution, receipt and possession of child pornography.


Ryan J. Shultz, FBI Special Agent

Subscribed and sworn before me this 27 day of March 2019, *and I find probable cause.*


Frances H. Stacy
United States Magistrate Judge